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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,763	09/09/2003	Richard J. Daignault JR.	02-006 CON	4848
35320 7590 08/30/2007 ADVANCED NEUROMODULATION SYSTEMS, INC. 6901 PRESTON ROAD PLANO, TX 75024			EXAMINER SAJOUS, WESNER	
			ART UNIT 2628	PAPER NUMBER
			MAIL DATE 08/30/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/659,763	DAIGNAULT, RICHARD J.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Sajous Wesner	2628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 July 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 24-33, 35, 40 and 42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 30-33, 35, 40 and 42 is/are allowed.
- 6) ☒ Claim(s) 24-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date: _____   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### **Remarks**

This communication is responsive to the amendment and response dated July 12, 2007. Claims 24-33, 35, 40 and 42 are presented for examination, of which claims 40-42 are newly added.

### ***Allowable Subject Matter***

1. The indicated allowability of claims 24-33, 35, 40 and 42 is withdrawn in view of the newly discovered reference(s) to Raymond et al. (US 20040087839). Rejections based on the newly cited reference(s) follow. The Examiner apologizes for any inconvenience that may cause your party.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 24-25, 28-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Raymond et al. (US 20040087839).

Considering claims 24-25 and 28-29, Raymond discloses a first database table (104, fig. 1) comprising patient information (see paragraphs 7-8); a second database table (114, fig. 1) comprising physician information; a third database structure (102, fig.

1) comprising data associating the third database table with the first and second database tables; and a map (see fig. 16A-B) having a plurality of fields corresponding to a plurality of regions (i.e., region 210) associated with an object representation representing at least a portion of a human body (204, fig. 16), each of the plurality of fields operable for storing a first condition value and a second condition value to particularly define a first attribute and a second attribute associated with the corresponding region, wherein the first attribute relates to pain intensity and the second attribute relates to pain type (i.e., neck or back pain), and wherein the data for mapping the plurality of regions associated with the object representation is located within a relational database table (114, of fig. 1), and the data associated with the third database table (102) with the first and the second database tables comprises a patient designator and a physician designator. See paragraphs 146-149.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 26-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Raymond in view of the Applicant Admitted prior art.

Raymond fails to teach a third condition value to particularly define a third attribute associated with the corresponding region wherein the third attribute relates to pain depth.

The AAPA discloses attribute that relates to pain depth (e.g., afflicted nervous system or chronic pain). See paragraphs 6-8.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the features of Raymond to include attribute that relates to pain depth, in the same conventional manner as taught by the AAPA; in order to allow the physician to effectively determine the level of pain during analysis of the patient's body stimulation.

#### ***Allowable Subject Matter***

5. Claims 30-33, 35, 40 and 42 are allowed over the prior art because they fail to teach means for generating a representation of at least two conditions associated to first region representing a portion of a human body in a distinguishable manner from each other for graphical representation on a display, wherein one of the plurality of conditions is graphically representable by a color and another of the plurality of conditions is graphically representable by a graphical pattern; and a means for converting graphical representations of regions and any associated conditions into a non graphical information form for storage (as recited in claim 30). The prior art fail also to teach a system for managing data relevant to pain experienced by one or more patients wherein a software is operable to:

(v) retrieve the stored data identifying the selected region or regions and the first and second attribute values; and

(vii) generate a representation of at least a portion of a human body that includes one or more regions visually identifying respective pain intensities and physical sensation pain types in the one or more regions (as recited in claim 41).

The software stores data identifying the selected regions and the first and second attribute values in a multi-patient database (as recited in claim 40).

### ***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sajous Wesner whose telephone number is 571-272-7791. The examiner can normally be reached on M-F 9:15-6:45.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Razavi can be reached on 571-272-7664. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2628

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Sajous Wesner  
Primary Examiner  
Art Unit 2628

WS  
8/17/07